

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 10/08/2020

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	
	:	
-against-	:	19-CR-862 (VEC)
	:	
	:	<u>ORDER</u>
RAIMUNDO NIEVES,	:	
	:	
Defendant.	:	
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VALERIE CAPRONI, United States District Judge:

WHEREAS on July 13, 2020, the Court denied Mr. Raimundo Nieves's motion for pre-trial release, citing Mr. Nieves's violent criminal history, repeated parole violations, and high rank within the Black Mob, Dkt. 187;

WHEREAS on October 6, 2020, Mr. Nieves moved for temporary release to the custody of his sisters to attend his brother's wake, Dkt. 215;

WHEREAS on October 7, 2020, the Court held a telephonic hearing in this matter; and

WHEREAS Defense counsel waived Mr. Nieves's appearance at the telephonic hearing;

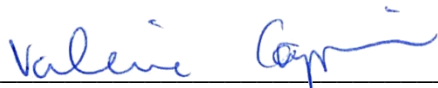
IT IS HEREBY ORDERED that for reasons stated at the hearing, Mr. Nieves' motion for temporary release is denied. The Court appreciates the pain Mr. Nieves is experiencing and conveys its condolences on the tragic and unexpected loss of Mr. Nieves's brother. A defendant pending trial may be temporarily released to the custody of "a United States marshal or another appropriate person" for a "compelling reason." 18 U.S.C. § 3142(i). Courts have found that funerals of certain close family members may constitute a compelling reason. *See, e.g., United States v. Moran*, 19-CR-0585, 2020 WL 1663366, at *2 (D. Md. Apr. 3, 2020); *United States v. Almazan*, 19-CR-0318, 2020 WL 3490380, at *1 (W.D. Tex. June 26, 2020). But "[i]n considering whether there is a 'compelling reason' for a defendant's release under this provision,

however, a court must ‘balance the reasons advanced for such release against the risks that were previously identified and resulted in an order of detention.’” *United States v. Chambers*, No. 20-CR-135, 2020 WL 1530746, at *1 (S.D.N.Y. Mar. 31, 2020) (internal citation omitted). *See also United States v. Wilburn*, 18-CR-0115, 2020 WL 1899146, at *4 (W.D. Pa. Apr. 17, 2020) (interpreting ‘compelling reason’ against the backdrop of the Bail Reform Act’s emphasis on evaluating defendants’ dangerousness and risk of flight). For the reasons outlined in the denial of Mr. Nieves’s bail application, Mr. Nieves remains a danger to his community. Dkt. 187. Further, given the ongoing COVID-19 pandemic, the U.S. Marshal Service is no longer escorting inmates in such cases. While the siblings of a defendant may be appropriate persons under 18 U.S.C. § 3142(i) in the cases of non-violent defendants, the lack of escort by U.S. Marshals only exacerbates the risk Mr. Nieves would pose to the community.

The Clerk of Court is respectfully directed to terminate the pending motion at docket entry 215.

SO ORDERED.

Dated: October 8, 2020
New York, NY



VALERIE CAPRONI
United States District Judge